

### **Remarks**

The Examiner objected to the drawings because they include reference numbers not mentioned in the description and omit reference numbers mentioned in the description. The drawings were amended to obviate the objections and the reference to figure 7 was removed.

The Examiner rejected claims 1-4, 7, 18-20, 23, and 26-27 under 35 U.S.C. §102 as being anticipated by U.S. Patent 1,724,349 ("Haag") and claims 1, 7, 18, 23 and 26 under 35 U.S.C. §102 as being anticipated by U.S. Patent 1,171,122 ("Schaff").

The Examiner also rejected claims 5, 6, 21 and 22 under 35 U.S.C. §103 as being obvious over Haag in view of design choice, claims 2-6, 19-22 and 27 under 35 U.S.C. §103 as being obvious over Schaff, and claims 8-17, 24 and 25 under 35 U.S.C. §103 as being obvious over any cited reference mentioned above. Because all of these claims rejected under 35 U.S.C. §103 are dependent claims, these claims will be allowable if the independent claims from which they depend are allowable. Therefore, based on the foregoing amendments to the independent claims, Applicant submits that all claims are allowable.

Claims 1 and 18, both of which are independent claims, require an outsole having an inner surface, an outer surface, and an opening extending from the inner surface to the outer surface. The opening is required to be a through-hole extending through the entire outsole. Both claims also require a plug to be placed in the opening.

Because neither Haag nor Schaff discloses, teaches, or suggests a through-hole in the outsole extending from an inner surface to an outer surface, claims 1 and 18 of Applicant's application are not anticipated. Both Haag and Schaff show a heel with a

bored opening extending downward into the heel but the bored opening bottoms out and does not go entirely through the heel.

Further, the cited art do not render Applicant's through-hole in the outsole obvious because the cited art teaches away from Applicant's through-hole. "[D]epressing action may compress the air in the pneumatic chamber in the rubber heel lift, so as to afford a cushion for the heel bone of the wearer." Page 3, lines 1-7 of Haag. Hence, Haag teaches the benefits of having a hole that does not go all the way through the heel.

Claim 28, the only other independent claim, requires an outsole having a heel area and a toe area and a footbed extending from the heel area to the toe area.

Because neither Haag nor Schaff discloses, teaches, or suggests a heel area and a toe area and a footbed extending from the heel area to the toe area, claim 28 of Applicant's application is not anticipated. Both Haag and Schaff show a footbed that extends over only a portion of the outsole.

As shown in all figures, Haag limits the footbed to the heel area. In fact, Haag teaches away from Applicant's invention by specifying that the heel lift "is to provide a pneumatic type of cushioning, whereby the cushioning action or resiliency is the result of the provision of an exterior rubber heel lift...". Col. 1, lines 14-25.

In addition, Schaff limits the footbed to extend only to the arch area. In fact, Schaff teaches away from Applicant's invention by specifying and showing the footbed to extend only to the arch area. The name of the title is "Combined Arch Support And Heel Cushion". "The particular objects of the invention are to provide an improvement in cushion heels combined with an arch support for the arch of the foot." Col. 1, lines 1-15.

Because the cited references do not disclose, teach, or suggest either a through-hole extending through the entire outsole or a footbed extending from the heel area to the toe area, Applicant submits that all claims are in condition for allowance.

Respectfully submitted,



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David Chen, Registration No. 46,613  
Gene S. Winter, Registration No. 28,352  
Attorneys for Applicant  
ST.ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street; Stamford, CT 06905-5619  
203 324-6155